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# REPORT ON STATE SEDIMENT CONTROL INSTITUTES PROGRAM

D. G. Unger, et al

National Association of Conservation Districts

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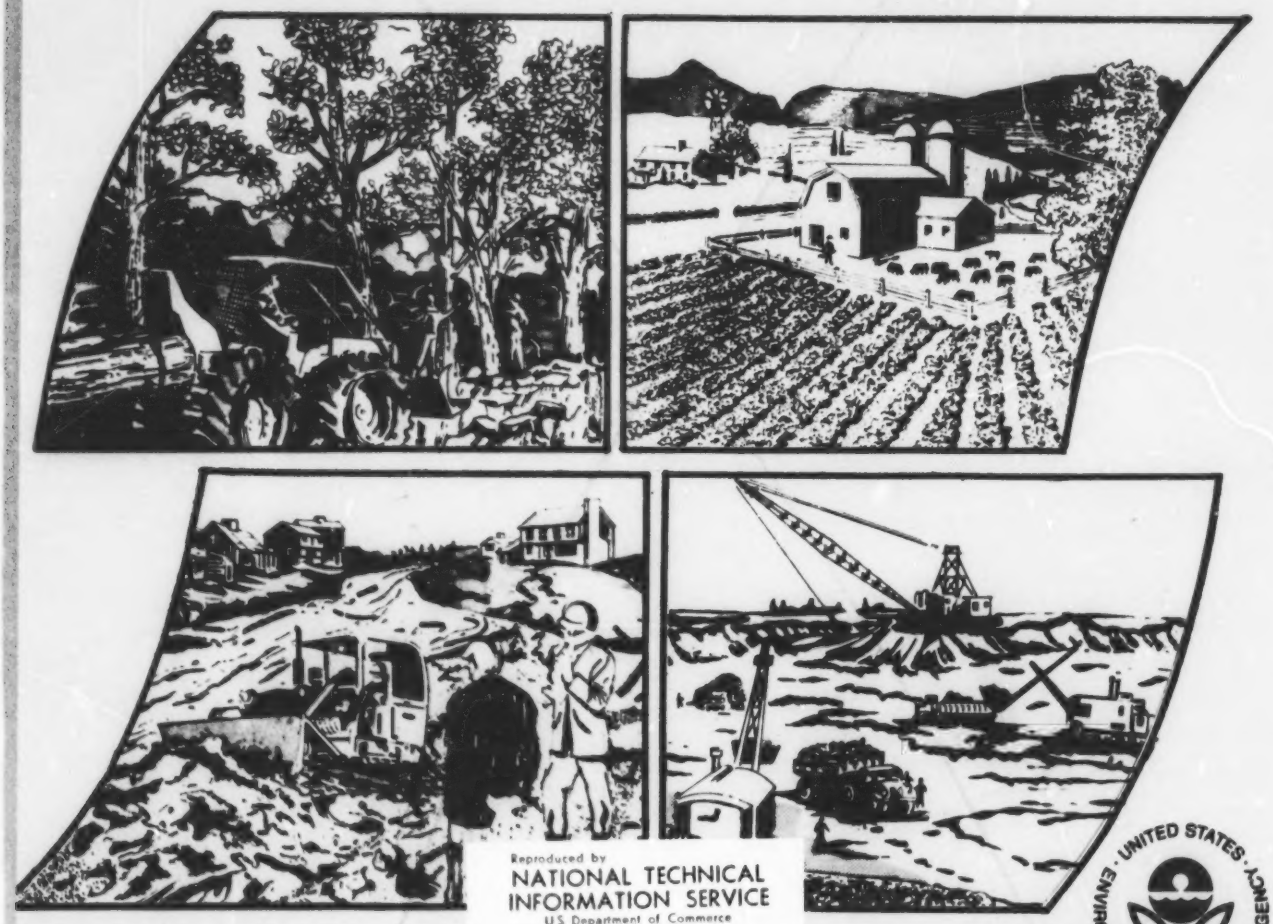

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A series of 40 State sediment control conferences was held to increase awareness of the problem of controlling erosion and sediment runoff, report on mandatory programs in this field that are in operation or under consideration, explain the provisions of a Model Act for Soil Erosion and Sediment Control, and encourage needed legislative and administrative action to deal with the problem.

The conferences succeeded in achieving enhanced recognition of the problem of sediment -- the nation's most prevalent pollutant in terms of volume -- and wider acceptance of the need for accelerated and extended action by officials of Conservations Districts and a wide variety of local, State, and Federal agencies and private organizations. The Institutes were influential in the enactment of several new State laws establishing regulatory programs, in the drafting of 15 new laws for introduction in State legislatures, and the modification of several other pending drafts of proposed State legislation.

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## SUMMARY

A series of 40 State sediment control conferences was held to increase awareness of the problem of controlling erosion and sediment runoff, report on mandatory programs in this field that are in operation or under consideration, explain the provisions of a Model Act for Soil Erosion and Sediment Control, and encourage needed legislative and administrative action to deal with the problem.

The conferences succeeded in achieving enhanced recognition of the problem of sediment--the nation's most prevalent pollutant in terms of volume--and wider acceptance of the need for accelerated and extended action by officials of Conservation Districts and a wide variety of local, State, and Federal agencies and private organizations. The institutes were influential in the enactment of several new State laws establishing regulatory programs, in the drafting of 15 new laws for introduction in State legislatures, and the modification of several other pending drafts of proposed State legislation.

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## SECTION I

## CONCLUSIONS

1. The Institutes focused the attention of a wide variety of concerned individuals and groups; representatives of local, State, and Federal governments; and officials of Soil and Water Conservation Districts on the problem of erosion and sediment. The preparation, presentation, and discussion of material--especially that dealing with the specific problems of the state in question--was extremely useful in creating an awareness of the scope and magnitude of the problem.

2. The conferences aided in creating a dialogue between many different agencies and individuals, thus bringing about a better appreciation of past accomplishments, present problems, and attitudes and methods involved in their solution. Closer and better working relationships were established in many instances among Conservation Districts, State Water Pollution Control and Soil and Water Conservation agencies, the Environmental Protection Agency, and other agencies and organizations.

3. Comprehensive information on a wide range of programs and legislation that has been developed to deal with erosion and sediment control at all levels of government was presented to the leaders of agencies and organizations most directly concerned.

4. The Institutes created a new environmental information resource for later educational use in the States in the form of papers, audio visual presentations, and proceedings of the conferences.

5. Greater understanding and acceptance of the potential need for regulatory and mandatory action in the field of erosion and sediment control were achieved through discussions of the Model Act for Soil Erosion and Sediment Control and other programs. There was general acceptance of the principles upon which the Model Act is founded, i.e., a preventive approach dealing with all land-disturbing activities utilizing the development and implementation of conservation plans approved by Conservation Districts.

6. The conferences helped to achieve a cooperative commitment from participants toward accelerated and extended action in the field of erosion and sediment control. In almost every case, the Institutes concluded with a call for action by a task force to study the problem and explore further steps deemed necessary.

7. The Institutes resulted in the drafting, re-drafting, introduction, and--in several cases--passage of legislation establishing regulatory programs in this field. When the Institutes began, five States had acted. At their conclusion,

12 States had taken one or another type of legislative or executive action. New legislation had been prepared in 15 other States. Efforts to enact previously-drafted bills in several States were accelerated.

## SECTION II

## RECOMMENDATIONS

1. Continue to place emphasis on the preventive approach in dealing with sediment and related non-point source pollutants.

2. Continue to utilize the Model State Act for Erosion and Sediment Control of the Council of State Governments as an educational tool in the discussion of the principles of regulatory programs for sediment control.

3. Cooperate with concerned organizations in the preparation, evaluation, and dissemination to the States of additional legislative and program implementation materials deemed adequate to meet the objectives of P. L. 92-500 that are directly related to sediment control.

4. Exert every effort to encourage close cooperation between State Water Pollution Control officials, State Soil and Water Conservation agency leaders, Conservation District officials, and the heads of other concerned State agencies in the development of non-point source control programs in connection with sections 305(b), 208, 304, and other provisions of P. L. 92-500.

5. Cooperate with concerned organizations in the preparation and utilization of effective training materials and programs to aid in the development and implmentation of State and local erosion and sediment control programs.

6. Cooperate in research, education, and demonstration programs related to erosion and sediment control and related non-point source pollution abatement.

## SECTION III

## INTRODUCTION

Excess sediment has been described as the greatest single contaminant, by volume, of lakes, streams, and rivers. It clogs stream channels, thus contributing to increased flooding, and poses hazards to navigation. Removal of sediment from the nation's potable water supplies is costly. Sediment can create a biochemical oxygen demand in natural waters; damage the habitat of fish and wildlife populations; and reduce capacities of water supply, flood control, and recreational reservoirs. Furthermore, eroded soil particles often carry pesticides, herbicides, fertilizers, and other chemicals from areas of application to water bodies.

It is estimated that in the United States alone, four billion tons of soil materials are eroded from the land each year and transported into downstream areas. The storage capacity of man-made reservoirs is being reduced at a rate of about one million acre-feet each year (1).

Efforts to deal seriously with this problem began in the 1930's with the passage of Public Law 46 by the 74th Congress. This established the Soil Conservation Service in the U.S. Department of Agriculture and declared it to be national policy "to provide permanently for the control and prevention of soil erosion and thereby to preserve natural resources, control floods, prevent impairment of reservoirs, and maintain the navigability of rivers and harbors (and) protect public health...."

In carrying out erosion control programs, it became evident that informed and effective involvement of landowners was essential. This led to the enactment of enabling legislation by each State legislature, which, in turn, resulted in the creation of 3,000 local Soil and Water Conservation Districts covering most of the land of the nation. These Districts, which are legal subdivisions of State government, have assisted 2.2 million rural landowners in planning and carrying out voluntary programs for the control of erosion and resultant sediment runoff. With assistance from cooperating agencies such as the U.S. Soil Conservation Service, they have also developed similar programs in urban and urbanizing areas in cooperation with Municipal, County, State, and Federal land-administering agencies, and with industrial landowners.

In the 1960's, sole reliance on voluntary programs came under question by County, State, and District officials. One reason was the growing recognition that housing, industrial, highway, and other construction projects were increasingly responsible for a large share of erosion and consequent sediment



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damages. Another was that significant changes in farm operating conditions, including new demands for expanded agricultural production, were intensifying hazards of wind and water erosion on farm lands.

In cooperation with local Conservation Districts, Town, City, and County governments began to enact ordinances requiring that certain actions be taken to prevent erosion and control the runoff of sediments from construction sites within their jurisdictions. State governments were next to act, and Maryland was the first to enact a regulatory program dealing with sediment control on construction sites.

In 1969, the National Association of Conservation Districts (NACD), the National Association of Counties, and the Soil Conservation Society of America joined in sponsoring a National Conference on Sediment Control. Assisting were the Federal Water Pollution Control Administration, the Department of Housing and Urban Development, and the U.S. Department of Agriculture. The purpose was to draw attention to the growing magnitude and urgency of the problem and to seek greater recognition by the Federal government of the need to consider sediment as a water pollutant.

Other States began to take action. South Carolina, the Virgin Islands, Ohio, and Iowa enacted laws establishing various kinds of mandatory sediment control programs--dealing with agricultural as well as other sources of sediment in Ohio and Iowa--and authorizing Conservation Districts to assist in these programs. The Congress prepared to pass amendments to the Federal Water Pollution Control Act that would call on the States to develop accelerated programs in this field, including regulatory programs, as part of a national non-point source pollution control effort.

It was in this setting that NACD, the Environmental Protection Agency, the U.S. Department of Agriculture, and representatives of State government drafted model state erosion and sediment control legislation that was approved in the spring of 1972 by the Council of State Governments and subsequently recommended to the State legislatures of the country (2). Concurrently, the Environmental Protection Agency awarded a contract to NACD to conduct a series of approximately 45 State sediment control Institutes to develop a greater public awareness of the need for effective legislative action in this field.

## SECTION IV

## DISCUSSION

The purpose of this series of Institutes, which began in August, 1972, was to:

1. Encourage recognition of the nature and magnitude of each State's current erosion and sediment problems.

2. Report on the provisions and implications of recently-enacted State sediment control legislation.

3. Report on the Federal legislation (enacted in October, 1972, as P.L. 92-500) dealing with sediment and other non-point source pollutants and the responsibilities of the Environmental Protection Agency in this field.

4. Consider the provisions of the Model Act for Erosion and Sediment Control approved by the Council of State Governments.

5. Encourage the States to move forward in this field and to develop programs, financial resources, staffing, and legislation adequate to the nature and scope of the problem.

The intention was to hold these educational conferences in most of the States which had not already enacted sediment control legislation and to communicate with those individuals and interests most directly concerned, such as farmers, ranchers, builders, developers, planners, State legislators, foresters, County and Municipal officials, Soil Conservation District officials, environmentalists, and representatives of appropriate local, State, and Federal agencies.

NACD planned the Institutes in close cooperation with the Soil and Water Conservation agencies of State government in the individual States and the State Associations of Conservation Districts. A planning guide was prepared, outlining a recommended format and invitation list, and materials were published for the use of participants. These included background statements; a compilation of State laws and local ordinances prepared by the Office of the General Counsel, USDA; excerpts from P.L. 92-500; the Model Act for Soil Erosion and Sediment Control (see Appendix 1); guidelines and outlines for sediment control programs; a bibliography on the subject (see Appendix 2); and other materials. The Environmental Protection Agency, the Soil Conservation Service, and participating States provided other materials and publications for distribution at the Institutes. Copies of materials have been furnished to the Project Officer.

During the planning and implementation of the Institute program, discussions were held with representatives of the Environmental Protection Agency, Soil Conservation Service, Council of State Governments, Agricultural Research Service, Soil Conservation Society of America, Corps of Engineers, Association of State Soil Conservation Administrative Officers, National Forest Products Association, American Farm Bureau Federation, Farm and Industrial Equipment Institute, Natural Resources Defense Council, National Crushed Stone Association, National Association of Counties, Interstate Commission on the Potomac River Basin, National Association of Home Builders, National Milk Producers Federation, the Wildlife Management Institute, the American Landowners Association, and others. The Institute program was discussed in detail at the regional and national meetings of NACD and at meetings of State Associations of Conservation Districts.

As shown in Table 1, Institutes were held in 40 states. Plans for one in New Jersey, which will be held in March, 1975, could not be completed within the contract period. In order to achieve the best coverage in the Hawaiian Islands, four Institutes were held there. Because of exceptional local interest, two conferences each were held in Vermont and Maryland.

NACD provided only consultive assistance in Pennsylvania, where the Department of Environmental Resources already had in motion extensive plans for a series of educational and training meetings through the State; and in Washington, where a preliminary conference was held by the Washington Association of Conservation Districts. The evolution and enactment of legislation in Michigan and Virginia while our program was under way made Institutes redundant there, as was the case in Ohio, Iowa, and the Virgin Islands where no further action was believed necessary. Because of local circumstances, no Institutes were held in Arizona, Arkansas, Delaware, Florida, and Texas.

In 19 States, the Institutes were held as official governors' conferences. In several additional States, not so designated, the governor or his representative participated at the Institute. Attendance ranged from 100 to 200 at most conferences, and participants represented a wide range of interests and organizations.

In about half of the States, arrangements were made for publication of proceedings. Copies of all Institute programs and published proceedings have been furnished to the Project Officer.

In related action that received impetus from the Institute program, NACD filled requests for additional copies of Institute materials from interested agencies and individuals; held preliminary discussions with EPA officials regarding a possible regional Institute in the Colorado River Basin; assisted with a

Tri-State Erosion and Sedimentation Conference held in Moscow, Idaho, on May 6, 1974; and provided assistance to several local Conservation Districts who sponsored County sediment control institutes.

TABLE 1

State Sediment Control Institute Dates and Status of State Legislation

| State | Institute Date | Proceedings | Law Drafted | Introduced | Enacted |
|---|---|---|---|---|---|
| Alabama | 12/9/74 | | | | |
| Alaska | 4/11/74 | | | | |
| Arizona | -- | | | | |
| Arkansas | -- | | x | | |
| California | 5/8-9/74 | x | | | |
| Colorado* | 9/13-14-73 | x | | | |
| Connecticut* | 5/31/73 | x | x | | |
| Delaware | -- | | x | x | |
| Florida | -- | | | | |
| Georgia* | 7/22-24/73 | x | x | x | x |
| Hawaii(1) | 5/14-18/73 | | x | x | x |
| Idaho* | 1/22-23/73 | x | x | x | |
| Illinois | 7/28-30/74 | | x | x | |
| Indiana* | 12/2-4/73 | | | | |
| Iowa | -- | | x | x | x |
| Kansas* | 8/28-29/72 | x | x | | |
| Kentucky | 1/25-26/73 | | | | |
| Louisiana | 12/15-16/72 | x | x | x | (5) |
| Maine* | 7/16/74 | | | | |
| Maryland(2) | 10/17/73; 10/3/74 | x | x | x | x |
| Massachusetts* | 10/9/74 | | | | |
| Michigan | -- | | x | x | x |
| Minnesota* | 11/30-12/1/72 | x | x | x | |
| Mississippi* | 9/18/73 | | x | x | |
| Missouri | 12/13-14/73 | x | | | |
| Montana | 12/15/72 | x | x | x | |
| Nebraska | 12/12-13/73 | x | x | | |
| Nevada | 11/29/73 | x | | | |
| New Hampshire* | 10/10/74 | | | | |
| New Jersey | March, 1975 | | x | x | |
| New Mexico* | 3/22/74 | | | | |
| New York | 12/10/74 | x | x | x | |
| North Carolina* | 4/24/74 | x | x | x | x |
| North Dakota | 1/17-18/73 | x | x | x | |
| Ohio | -- | | x | x | x |
| Oklahoma* | 9/12/72 | | | | |
| Oregon | 12/11-12/72 | x | x | x | |

| State | Institute Date | Proceedings | Law Drafted | Introduced | Enacted |
|---|---|---|---|---|---|
| Pennsylvania (3) | | | x | x | x |
| Rhode Island | 10/30/74 | x | | | |
| South Carolina | 9/18/74 | | x | x | x |
| South Dakota* | 3/26-27/73 | | x | x | |
| Tennessee | 7/24-25/74 | | | | |
| Texas | -- | | | | |
| Utah* | 3/28-29/74 | | | | |
| Vermont*(2) | 2/28/74; 7/18/74 | x | | | |
| Virginia | -- | | x | x | x |
| Washington (4) | 11/27/73 | | x | | |
| West Virginia | 12/12-13/72 | x | x | x | |
| Wisconsin* | 4/26-27/73 | | x | x | |
| Wyoming* | 5/29-30/73 | | | | |
| Puerto Rico | 7/26/74 | | | | |
| Virgin Islands | -- | | x | x | x |

*Governor's conference
(1) Four institutes held
(2) Two institutes held
(3) Held by Pa. Department of Environmental Resources
(4) Preliminary conference
(5) Governor's Executive Order assigns sediment control responsibility to Conservation Districts

## SECTION V

## SUMMARY REPORTS OF THE INSTITUTES

Alabama. This meeting was held in connection with the 32nd Annual Meeting of the Alabama Association of Soil and Water Conservation District Supervisors. Speakers included representatives of the Agricultural Research Service and Soil Conservation Service of the U. S. Department of Agriculture, the Alabama Water Improvement Commission, the Association of District Supervisors, and the State Association of County Commissioners.

Alaska. This was a small institute, attended by some 60 persons. Speakers and panelists included Federal, State, and local representatives; public land agency administrators; builders and contractors; realtors; miners; and others. It was agreed that action by Soil Conservation Subdistricts is needed to deal more vigorously with sediment control, and plans are to hold sessions between District leaders and builders and contractors to work out solutions to erosion and sediment problems.

District officials are reluctant to take on any additional legislative action until they revise their basic soil conservation act. Districts and the State Association have participated in several meetings discussing plant materials for soil erosion control and stabilization in disturbed areas such as road cuts and fills.

California. Although attendance was only about 80, representation from most affected interests was good. The need for educational work, whether or not new legislation is developed, was stressed by a number of the speakers. A report on California's efforts to develop land use legislation was included.

No State legislation has yet been proposed. The lack of a State Soil and Water Commission and Executive Department support for a Commission and Districts has delayed progress in this area. This topic will be pursued with the new governor in 1975.

Colorado. This was a Governor's Conference, and Governor John Vanderhoof delivered the keynote address challenging those in attendance to determine the extent of the erosion and sediment problem in the State and develop recommendations for its correction. There was good attendance and broad representation from the fields of soil and water conservation, County and State government, planning, concerned Federal agencies, and private organizations, including environmental groups. The consensus of the conference was that its findings should be reported to Governor Vanderhoof and that he be encouraged to appoint a task force to prepare legislative recommendations.

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The State Soil Conservation Board has met with the Governor to recommend a task force, but it has not yet been appointed.

Connecticut. This Governor's Conference was attended by a very diversified audience of 225 persons. Participating with the State Association of Conservation Districts in planning the meeting were the State Department of Environmental Protection, the Office of State Planning, and the Extension Service. Federal, State, Town, and District officials and representatives of engineering, environmental, forestry, development, realty organizations, and local planning boards participated.

Governor Meskill's and Environmental Commissioner Lufkin's remarks were outstanding. A presentation by SCS State Conservationists Hilliard on the erosion and sediment problem in the state was exceptionally good. Discussions at afternoon workshops on agriculture, transportation and utilities, mineral resources, and land development were well organized and lively. Harold Harlow, Chairman of the House Environmental Committee, encouraged the group to include funding and staffing needs along with any suggested State legislation to his committee. John Breakell, President of the Connecticut Association of Conservation Districts, set a meeting of a task force to consider legislation the week following the Institute.

The task force has prepared draft legislation based on the Model Act.

Georgia. This was another outstanding Institute. Governor Carter keynoted the conference and said that his administration was prepared to support sediment control legislation in the 1974 legislature. Director Tanner of the Department of Natural Resources gave a firm commitment of support and expressed satisfaction with the approach being taken because it would enable the Department and the State Soil and Water Conservation Committee and local Districts to work very closely together. The delegation from the State legislature, led by Chairman Dorminy of the House Natural Resources Committee, said that they were relying on Conservation Districts to perfect a draft sediment bill now under consideration by the time the next legislature meets. Regional meetings of District officials are now under way to discuss the proposed legislation.

The bill was introduced in the 1974 session of the Georgia General Assembly. It passed the House but opposition from builders and developers kept it from action in the Senate. In the 1975 session, the bill passed.

Hawaii. Four Institutes were held, one on each of the main islands, with good attendance and participation. Emphasis was on the question of active Conservation District participation in a regulatory program. The consensus was that District officials wish to take on additional responsibilities but leave enforcement to the County governments which already administer grading ordinances.

As a result of the Institutes, both the House and Senate passed resolutions calling on Conservation Districts and County governments to work together in determining the need for a State law regulating sediment.

Two bills were submitted to the Hawaii Legislature in 1974. One was patterned after the Model Act, and was not accepted. The second act, which had the support of the Hawaii Association of Conservation Districts, was passed and signed by the Governor. This act provided that County government, in cooperation with Conservation Districts, shall prepare ordinances for control of soil erosion and sediment runoff. It includes a provision whereby standards shall be deemed met if it can be shown that the land is being managed in accordance with soil conservation practices acceptable to the applicable Soil and Water Conservation District Directors, and that a comprehensive conservation program is being pursued. A landowner or operator would not have to apply to the County for a permit if following the above procedure. The law further specified that the Department of Health would take action if the Counties had not implemented an erosion and sediment control ordinance within one year of the passage of the act.

Idaho. This was a good session with excellent presentations. Evening discussion groups were scheduled to consider various aspects of the sediment problem. Speakers represented key areas of concern. Following the Institute, a committee was designated to review the Model Act, make appropriate revisions, and seek introduction in the legislature during its next biennial session (1975).

The legislation was introduced but did not pass. The Legislature was also considering a State land use bill, which picked up strong opposition at the end of the session, and both bills went down together. The Idaho Association and Commission are now asking the Governor to issue an executive order giving erosion and sediment control responsibility to the Commission and Soil Conservation Districts.

Illinois. To secure widespread attendance, this session was held in conjunction with the annual meeting of the Association of Illinois Soil and Water Conservation Districts. Approximately 450 persons attended. The Association has prepared a draft of sediment control legislation and has held regional meetings throughout the State to discuss it.

The sediment control bill would amend the Soil and Water Conservation District Act to provide for State standards set by the Division of Soil and Water Conservation and for County standards. The bill has been introduced twice. Urban areas are reluctant to go along with it for a number of reasons: (1) They think it is a zoning bill, (2) Districts don't include urban land, (3) a special task force has been created by the Governor to study and make recommendations for non-point pollution control.

Districts by law are already involved in subdivision review for erosion and sediment control.

Indiana. This was a conference sanctioned by Governor Bowen and held in conjunction with the annual meeting of Soil and Water Conservation Districts. Approximately 600 were in attendance representing Districts, Federal and State agencies, County government, zoning, sanitary agencies, and others. Reaction in the general sessions and in group discussions was positive. Resolutions relating to the sediment control problem were approved by the group, and plans were made for a special task force to consider future action.

Indiana is holding a series of supervisors' workshops where they are exploring alternate roles of a District official in erosion and sediment control. When these are completed, they will probably use an inter-agency committee approach to develop legislation. They are also discussing new District election processes.

Kansas. Attendance was broadly representative of all interests concerned, and presentations and discussion were lively. Governor Docking addressed the group and indicated his support for a State sediment control program. A task force to prepare legislation was appointed by the State Conservation Commission with the cooperation of the Kansas Association of Soil Conservation Districts.

Legislation was drafted and submitted to an interim legislative committee. Training sessions in cooperation with the Extension Service are under way. The legislation will be introduced in the 1975 legislative session.

Kentucky. The attendance of 165 was somewhat larger than expected. Reservations were expressed by some participants about the mandatory aspect of erosion and sediment control proposals, but the general attitude was favorable. Presentations were good, and the participation of members of the State attorney general's office in discussion groups was especially useful.

No legislation has been drafted, but the State Soil and Water Conservation Committee requested and received accelerated funding for sediment control which is currently being used to speed up soil surveys.

Louisiana. Although 800 persons were sent invitations, attendance was only 84. However, Governor Edwards pledged his administration's backing for a State erosion and sediment control act in the 1974 legislative session. The discussion and presentations were positive throughout the Institute.

As a result of the Institute, and erosion and sediment control law was drafted and introduced in the 1974 legislature. It was favorably reported by the House Agriculture Committee, but was defeated in the House. In October, Governor

Edwards assigned Conservation Districts the primary responsibility for sediment control work in connection with P. L. 92-500 through Executive Order No. 75.

Maine. This session, held as a Governor's Conference, was attended by approximately 125 persons representing a broad cross section of private and governmental interests. Workshops were held on the sediment problem as it affects agriculture; urban development and construction sites; coastal, lake shore, and stream bank erosion; and woodlands. The group concluded that educational programs are not sufficient to solve Maine's erosion and sediment problems, and that more legislation to regulate earth-disturbing activities is needed. Follow-up on the Institute is planned.

Maryland. Because Maryland was the first State to enact sediment control legislation, this conference was of particular interest. The program concentrated on "where we go from here" in terms of sediment from farm and forest lands, incorporation of storm water management in sediment control programs, urban developments, surface mined lands, utilities, and highways. The Montgomery County Soil Conservation District held its annual urban conservation tour following the Institute and built its program around storm water management considerations in sediment control work.

Massachusetts. Approximately 150 attended this Institute, and a wide variety of groups and agencies--and especially town conservation commissions--were well represented. This was a governor's conference, and the Lieutenant Governor presented the charge to the meeting. The Extension Service aided materially in this session. At the conclusion of the conference, Dr. Charles H.W. Foster, Secretary, Executive Office of Environmental Affairs, charged the president of the State Association of Conservation Districts and other organizers of the Institute to "meet within 30 days" to begin identification of steps which need to be taken in relation to control of erosion and sediment runoff in urban developments.

Foster also called upon his own Department to form another group to consider next steps which should be taken in dealing with sediment and erosion control in the area of coastal resources. He suggested an array of organizations and agencies which should be invited to one or the other of these two planning sessions, and indicated his desire to see a workshop held on each of these topics in the coming months.

Minnesota. This was held as a Governor's Conference, and there was broad representation, including State legislators, among the 80 persons present. The legislature had previously ordered the State Soil and Water Conservation Commission to prepare a proposal for mandatory control of sediment; this Institute provided exactly the vehicle needed to move forward with this project.

Following the Institute, the Commission, the State Association of Soil and Water Conservation Districts, and the Association representing Minnesota Counties and Municipalities met and drafted legislation to be introduced in the current session of the State legislature.

The bill was introduced but not passed. Drainage regulation by the Department of Natural Resources (to which the Commission is attached) has created a fear of State regulatory functions.

Mississippi. This was also a Governor's Conference and was keynoted by Governor William L. Waller. The program was excellent and attendance large. B.G. Perry, President Pro Tem of the State Senate, led a panel discussion of the effect of the model legislation if it were enacted. The participants recommended that the conference chairman appoint a committee to revise and adapt the Model Act to Mississippi conditions, present the amended act to the State legislative drafting service for further refinement, and work with members of the legislature to encourage enactment.

The law was drafted and introduced in the 1974 legislature and was held over. It has now been "pre-filed" for action by the 1975 session. Best forecasts are that it will pass this year.

Missouri. This conference was significant because of the slow progress of Conservation District organization in this state. The program was well-organized and presentations and discussions were excellent. The reactions of participants were positive, and the conference provided a good foundation for future action. Two fine presentations were made by Jerome Svore of EPA and Dale Cochran of the Iowa legislature.

Montana. Governor-Elect Tom Judge gave the keynote speech at this excellent one-day Institute attended by 117. Sponsors were pleased that 36 out of 46 local, State, and Federal organizations that were invited attended. The attitude of speakers and participants was positive, and a study committee was appointed to begin work immediately to adapt the Model Act to Montana needs. This committee has met and has prepared legislation for introduction in the current session of the State legislature.

Held over from 1973 to the 1974, the bill died in committee. A grant proposal to EPA to gather additional information for subsequent legislation is pending.

Nebraska. This was a well-organized conference with 100-125 in attendance. There was excellent representation from a variety of interests. Presentations were generally good. One highlight was a description of the operation of Iowa's mandatory erosion control law.

A task force has proposed amendments to the district enabling act which are being studied by the Natural Resources Commission.

Nevada. The Nevada Erosion-Sedimentation Conference was held in conjunction with the annual meeting of the State Association of Conservation Districts. A representative of the Governor addressed the delegates along with key Federal and State agency representatives and others. There was substantial unanimity of opinion regarding the nature of the problem and the need for future action. Further educational work with District officials is planned.

New Hampshire. This Governor's Conference included discussion groups as well as formal presentations. Mrs. Meldrim Thomas, Jr., wife of the Governor, opened the conference. Recommendations growing out of the group discussions were presented on the subjects of highway and utility construction, commercial and residential development, forestry and mining, and agriculture.

New Mexico. This was a Governor's Conference and Governor Bruce King delivered the keynote address. About 120 attended with good representation from local and State agencies and a variety of interests including agriculture, ranching, land development, and environmental organizations. No conclusive action was taken at the conference.

New York. This Institute, although not officially a Governor's Conference, was supported by Governor Malcolm Wilson. There were over 200 registered including representatives of more than 30 agencies and organizations. An especially valuable part of the program was a presentation of information from the State's just-completed erosion and sediment inventory. The main concern expressed was that emphasis remain on voluntary programs to the extent that they are effective, that a great deal of education be used, and that mandatory controls be used as sparingly as possible, keeping in mind the costs of applying preventive measures. Arrangements have been made for a series of eight regional conferences throughout the State as follow-up to the Institute.

North Carolina. This Governor's Conference, called to initiate implementation of the State's new sediment control law, was outstanding and extremely successful. About 300 attended. A wide diversity of groups was represented, including home builders, land developers, the State department of transportation, Conservation Districts, the Soil Conservation Service, and City and County governments. Governor Holshouser emphasized the need to move ahead sensibly and to work toward preventing erosion and controlling sediment runoff rather than punishing those who cause it. The new law includes provisions for storm water management.

North Dakota. This well-organized Institute was attended by 125 persons representing an especially wide range of interests and agencies. Presentations were good, and discussion was directed at how to rather than whether to proceed. There was a serious, positive approach in the discussion groups which considered sections of the Model Act. Governor Arthur A. Link presented the keynote address. A follow-up committee was appointed and met with the Governor.

Legislation has been drafted for introduction in the 1975 legislature.

Oklahoma. Preliminary organization by the sponsors for this Institute was excellent. Governor Hall stated that he felt it would be necessary to enact legislation to control erosion and agreed to name a committee of 25 persons to follow through.

Oregon. Because of a snowstorm and record low temperature for western Oregon, attendance at this excellent program was only 70. However, the presentations were first-rate and there was a good cross-section of interests represented on the program and among participants. Following the Institute, the State Soil and Water Conservation Commission and State Association of Conservation Districts prepared an amended version of the Model Act for introduction in the 1973 session of the State legislature.

This bill was not reported out of committee. The Oregon Association and State Commission have prepared a new proposal which would amend the present land use section of the Oregon SWCD law to give Districts authority to set erosion and sediment control standards in portions of the Conservation Districts. This approach has been cleared with the State Water Pollution Authority and has also been presented and favorably received by the appropriate Oregon legislative interim committee. The amendments to the Oregon act have been introduced in the 1975 session.

Rhode Island. There were 160 at this Institute, an excellent attendance considering the size of the State. A total of 48 different agencies and organizations were represented. Discussion groups dealt with agriculture and forestry, land development, transportation and utilities, and coastal and streambank erosion. The Model Act and the State's Wetlands Act will be examined as possible legislative vehicles for an erosion and sediment control program in the State.

South Carolina. Because South Carolina has a law enabling the enactment of County sediment control ordinances, the emphasis in this conference was on education and extension of the approach taken in several Districts to other Counties in the State. After a discussion of the national picture and the local program adopted in Lexington County, the participants toured construction

sites where the erosion and sediment program is being implemented. Only three Counties have enacted ordinances under the State law.

South Dakota. This was a Governor's Conference, well organized, and with broad representation. Among approximately 125 in attendance were representatives of key State and Federal agencies and other individuals including Conservation District and Conservancy Subdistrict officials, State legislators, County commissioners, municipal officials, farmers and ranchers, and representatives of farm organizations, Keep South Dakota Green, and the media. At the end of the conference, representatives of the South Dakota Conservation Commission announced that they intend to appoint a task force to draft suitable legislation. The sediment problem was well identified at the Institute, the Districts indicated their willingness to proceed with a regulatory program, and there was apparent broad support from interested agencies and organizations for the approach being taken.

Legislation drafted following the Institute died in committee but will be reintroduced in the 1975 session.

Tennessee. This was a well-attended Institute (over 200). There was a fine presentation by Lieutenant Governor John S. Wilder (President of NACD). However, presentations on the second day indicated opposition to regulatory legislation by some State legislators, agriculturalists, and developers.

After the Institute, the Tennessee Farm Bureau took a stand opposing any mandatory sediment legislation, and there has been no further activity.

Utah. The problem of sediment and erosion control was portrayed in an excellent fashion by speakers representing a wide variety of public and private interests at this governor's conference. Gov. Calvin Rampton delivered the keynote address. Discussion was lively and to the point. The conference was educational in informing those present of the magnitude and extent of the problem, and plans are to follow through with studies of how to deal with the issue.

Vermont. This was an excellent Governor's Conference with Gov. Thomas P. Salmon giving the keynote address. Martin Johnson, Secretary of the Agency of Environmental Conservation, spoke also. Attendance was good, representing a cross-section of interests in the State, and presentations were of high quality.

An excellent second erosion and sediment control workshop was held to explore the subjects opened up at the earlier institute. Attendance was even larger and participation more intensive than at the first conference.

Washington. This meeting, held in conjunction with the annual meeting of the State Association of Districts, was well-attended and provided coverage of most of the key topics considered in the other State Institutes. A presentation of the problem was followed by responses from representatives of agriculture, forest industries, urban-suburban interests, recreation, local government, the State ecology department, and the EPA. Plans are to follow this with approximately 35 local discussion meetings at the local level throughout the State.

Additional background is desirable in this case, as H. B. 22 was considered by the 1972 Washington Legislature and there was no unanimity of support for a regulatory measure for erosion and sediment control at any level of government.

West Virginia. Sponsored by the West Virginia Soil and Water Conservation District Supervisors Association, this was an excellent Institute with good representation from major interests among the 100 present. Especially good cooperation and working relationships among concerned State agencies was noted. All participants were well-informed. The steering committee, composed of the heads of key agencies in the State (such as the Natural Resources, Health, Highway, and Agriculture Departments; State Soil and Water Conservation Agency; State University; and others), was instructed to consider follow-up action. They have met and have drafted legislation which has been introduced twice without success.

Wisconsin. This was sponsored by the Governor and his representative was the keynote speaker. With about 100 present, the Institute succeeded in creating a consensus among key State leaders in favor of a mandatory erosion and sediment control regulatory program. A number of pieces of legislation related to sediment control were discussed, including a model County ordinance that has been in preparation during the past nine months by the State Board of Soil and Water Conservation Districts. Serious attention was paid to the need for adequate financing of a control program by the State legislature. The Institute ended with unanimous approval of a recommendation that the legislative committees of the State Board of SWCD's; the State Association of Conservation Districts; and key representatives of the Department of Administration, Department of Natural Resources, and interested citizen organizations prepare legislation.

Three bills were introduced following the seminar: one by the Department of Administration; one by the Department of Natural Resources; and one for 25-year cost-sharing contracts. None was passed. The State Board of SWCD issued a model sediment control ordinance for Counties to adopt.

Wyoming. This was a Governor's Conference and well attended despite competition with an EPA briefing session in another city that was of interest to many of the participants. Governor Hathaway gave the keynote address and did an excellent job. One highlight of the first day's program was a presentation on the effect of sediments originating from wind erosion. At the conclusion of the conference, plans were made for a task force to consider the need for regulatory legislation.

The task force has been appointed and is presently considering the preparation of legislation.

Puerto Rico. Attended by some 100 persons, this Institute was supported actively by the highest levels in the Commonwealth government. There was good representation from different Commonwealth and local agencies, as well as other organizations. The need for early action to enact legislation to control serious erosion and sediment problems was well developed at the meeting.

## SECTION VI

## REFERENCES

(1) "Control of Agriculture-Related Pollution," a report to the President submitted by the Secretary of Agriculture and the Director of the Office of Science and Technology, Washington, D.C., January, 1969.

(2) "Model State Act for Soil Erosion and Sediment Control," 1973 Suggested State Legislation, Volume XXXII, The Council of State Governments, Iron Works Pike, Lexington, Ky. 40505, September, 1972.

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## SECTION VII

## APPENDICES

Appendix A--"Model State Act for Soil Erosion and Sediment Control"

Appendix B--"Selected Bibliography on Sediment Control"

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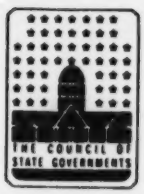


# 1973 SUGGESTED STATE LEGISLATION

VOLUME XXXII

## MODEL STATE ACT FOR SOIL EROSION AND SEDIMENT CONTROL

Developed by
The Committee on Suggested State Legislation

**The Council of State Governments**
Iron Works Pike
Lexington, Kentucky 40505

## Model State Act for Soil Erosion and Sediment Control

*Explanatory Statement.* Soil erosion and sediment controls have long been recognized as a first line of defense against water and air pollution. Preventative in nature, these controls can, when applied effectively in urban, suburban, and rural areas, materially reduce the scope of the pollution problem.

For over 30 years, local conservation districts, organized under state law to promote the wise use, care, and management of the Nation's land, water, and related resources and supervised by a state agency which often has independent responsibilities for the conservation and management of natural resources, have been deeply involved in establishing and maintaining erosion and sediment control measures on agricultural and forest lands. Today, these same districts, which cover over 98 percent of the privately owned lands in the Nation, are directing their attention to the increase in and acceleration of soil erosion and sediment deposition occasioned by rapid shifts in land uses from agricultural and rural to nonagricultural and urban uses; by changes in farm and ranch enterprises, operations, and ownership; by construction of housing, industrial and commercial developments, streets, highways, recreation areas, schools and universities, public uilities and facilities; and by other land-disturoing activities. Evidence made available by current research suggests, for example, that sediment yields in areas undergoing suburban development can be as much as 5 to 500 times greater than in rural areas.

The Model Soil Erosion and Sediment Control Law was prepared by a task force acting under a mandate from the Workshop on Soil Erosion which met in conjunction with the Special Committee on District Outlook of the National Association of Conservation Districts on March 15–18, 1972, in Washington, D.C., under the auspices of the National Symposium on State Environmental Legislation.

The model law is premised on two basic recommendations agreed to by the Workshop on Soil Erosion. These recommendations are that:

1. Responsibility for an erosion and sediment control regulatory program should be placed in the conservation districts which have the responsibility under the laws of all 50 States for the control of erosion and sediment deposition. This responsibility would be in conjunction with, but would not replace, those state and local regulatory programs concerned with the quality of soil and water resources and pollution abatement activities.

2. Suggested state erosion and sediment control legislation should be drafted in the form of an amendment to existing conservation districts' enabling laws.

The general structure and substantative provisions of the model law reflect, with certain minor revisions, the general principles developed by the Workshop to guide the task force in preparing draft legislation.

The conclusions and recommendations of the Workshop on Soil Erosion were based in part on a paper entitled "Approaches to Urban and Rural Erosion and Sediment Control — Administrative and Legislative Actions to Extend State Programs," prepared and presented by Mary M. Garner, Attorney, Office of the General Counsel, U.S. Department of Agriculture. This paper describes some of the accelerated erosion and sediment control programs inaugurated by con-

servation districts under their existing legal authorities, identifies various types of legislation adopted by the States to strengthen state soil erosion and sediment control programs, and contains suggestions for accelerating district erosion and sediment control programs. These suggestions include a proposal to amend state soil and water conservation laws similar to the model law.

In carrying out its mandate, the task force critically reviewed each provision of the model law from the standpoint of practicality and efficacy in achieving the desired objectives of the legislation. The task force is of the opinion that further comments and suggestions regarding these aspects of the legislation would be particularly beneficial. Recognizing that any model law must be tailored by each State to comply with its constitutional and statutory requirements, the task force has endeavored to set down in as clear and straightforward a manner as possible the essential requirements of an effective soil erosion and sediment control law.

Principal authorities and requirements of the model law include:

1. establishment of a comprehensive state soil erosion and sediment control program applicable to different types of land use and soil conditions, with identification of areas having critical soil erosion and sediment problems; adoption of statewide guidelines including conservation standards for the control of erosion and sediment resulting from land-disturbing activities;
2. establishment of district soil erosion and sediment control programs and conservation standards consistent with the state program and guidelines;
3. prohibition of certain land-disturbing activities unless conducted in accordance with approved soil erosion and sediment control plans, with special requirements applicable to land-disturbing activities resulting from normal agricultural and forestry activities;
4. use of existing regulatory mechanisms, such as building, grading, and other permits applicable to land-disturbing activities, to implement erosion and sediment control plan requirements;
5. inspection, monitoring, and reporting requirements; provision for modification of approved plans by mutual agreement;
6. penalties, injunctions, and other enforcement provisions; and
7. appropriations to carry out the Act.

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### *Suggested Legislation*

An Act to amend the [soil and water conservation districts law] to provide for an acceleration and extension of the program for control of soil erosion and sediment damage resulting from land-disturbing activities within the State; to provide for adoption of a comprehensive statewide soil erosion and sediment control program and guidelines and for adoption by [soil and water conservation districts] of soil erosion and sediment control programs consistent with such statewide program and guidelines; to require the filing and approval of plans for the control of soil erosion and sediment damage in connection with land-disturbing

activities; to provide for inspections and reports; to declare certain acts to be unlawful; to provide for administration and enforcement; to provide for financial and other assistance to districts and the [state soil and water conservation commission] for the purposes of this Act, and making an appropriation for those purposes; and for other purposes.

*Be It Enacted by the Legislature of the State of [ ] that the [soil and water conservation districts law] shall be amended by adding at the end thereof the following sections:*

Section 1. [*Findings and Declaration of Policy.*] The Legislature finds that erosion continues to be a serious problem throughout the State, and that rapid shifts in land use from agricultural and rural to nonagricultural and urbanizing uses, changes in farm and ranch enterprises, operations, and ownership, construction of housing, industrial and commercial developments, streets, highways, recreation areas, schools and universities, public utilities and facilities, and other land-disturbing activities have accelerated the process of soil erosion and sediment deposition resulting in pollution of the waters of the State and damage to domestic, agricultural, industrial, recreational, fish and wildlife, and other resource uses. It is, therefore, declared to be the policy of this Act to strengthen and extend the present erosion and sediment control activities and programs of this State for both rural and urban lands, and to establish and implement, through the [state soil and water conservation commission], hereinafter referred to as the "Commission," and the [soil and water conservation districts], hereinafter referred to as "districts," in cooperation with counties, municipalities, and other local governments and subdivisions of this State, and other public and private entities, a statewide comprehensive and coordinated erosion and sediment control program to conserve and protect land, water, air, and other resources of the State.

Section 2. [*Definitions.*]

(a) "Land-disturbing acitivity" means any land change which may result in soil erosion from water or wind and the movement of sediments into state waters or onto lands in the State, including, but not limited to, tilling, clearing, grading, excavating, transporting, and filling of land, other than federal lands, except that the term shall not include such minor land-disturbing activities as home gardens and individual home landscaping, repairs, and maintenance work.

(b) "Person" means any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, municipality, or other political subdivision of this State, any interstate body, or any other legal entity.

(c) "State waters" means any and all waters, public or private,

on the surface of the ground, which are contained within, flow through, or border upon the State of [ ] or any portion thereof.

(d) "Erosion and sediment control plan" or "plan" means a plan for the control of soil erosion and sediment resulting from a land-disturbing activity.

(e) "Conservation standards" or "standards" means standards adopted by the Commission or the districts pursuant to Sections 3 and 4, respectively, of this Act.

Section 3. [*State Erosion and Sediment Control Program.*]

(a) The Commission shall, in cooperation with the [state water quality control agency] and other appropriate state and federal agencies, develop and coordinate a comprehensive state erosion and sediment control program. To assist in the development of such a program, the Commission shall name an advisory board of not less than 7 nor more than 11 members, representing such interests as housing, financing, industry, agriculture, recreation, and local governments, and their planning, transportation, health, public works, and zoning commissions or agencies.

(b) To implement this program, the Commission shall develop and adopt by [(date)] guidelines for erosion and sediment control, which guidelines may be revised from time to time as may be necessary. Before adopting or revising guidelines the Commission shall, after giving due notice,[1] conduct public hearings on the proposed guidelines or proposed change in existing guidelines. The guidelines for carrying out the program shall:

(1) be based upon relevant physical and developmental information concerning the watersheds and drainage basins of the State, including, but not limited to, data relating to land use, soils, hydrology, geology, size of land area being disturbed, proximate water bodies and their characteristics, transportation, and public facilities and services;

(2) include such survey of lands and waters as may be deemed appropriate by the Commission or required by any applicable law to identify areas, including multijurisdictional and watershed areas, with critical erosion and sediment problems; and

(3) contain conservation standards for various types of soils and land uses, which standards shall include criteria, techniques, and methods for the control of erosion and sediment resulting from land-disturbing activities.

(c) The program and guidelines shall be made available for public inspection at the office of the Commission.

Section 4. [*District Erosion and Sediment Control Program.*]

(a) Each district in the State shall, within [ ] year(s) after the adoption of the state guidelines, develop and adopt a soil erosion and sediment control program consistent with the state program and

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[1]Districts laws generally contain a definition of "due notice." If the law does not contain such a definition, one should be included in Section 2 of this Act.

guidelines for erosion and sediment control. To assist in developing its program, each district shall name an advisory committee of not less than 7 nor more than 11 members representing such interests as housing, financing, industry, agriculture, recreation, and local governments, and their planning, transportation, health, public works, and zoning commissions or agencies. Upon the request of a district the Commission shall assist in the preparation of the district's program. Upon adoption of its program, the district shall submit the program to the Commission for review and approval. If a district fails to submit a program to the Commission within the period specified herein, the Commission shall, after such hearings or consultations as it deems appropriate with the various local interests in the district, develop and adopt an appropriate program to be carried out by the district. In areas where there is no district, the Commission shall designate a local unit of general government such as a county, municipality, town, parish, borough, or township to develop, adopt, and carry out the erosion and sediment control program and exercise the responsibilities of a district with respect thereto, as provided in this Act.

(b) To carry out its program the district shall, within [ ] year(s) after the program has been approved by the Commission, establish, consistent with the state program and guidelines, conservation standards for various types of soils and land uses, which standards shall include criteria, guidelines, techniques, and methods for the control of erosion and sediment resulting from land-disturbing activities. Such conservation standards may be revised from time to time as may be necessary. Before adopting or revising conservation standards, the district shall, after giving due notice, conduct a public hearing on the proposed conservation standards or proposed changes in existing standards.

(c) The program and conservation standards shall be made available for public inspection at the principal office of the district.

Section 5. [*Prohibited Land-Disturbing Activities.*]

(a) Except as provided in subsection (e) of this section, no person may engage in any land-disturbing activity until he has submitted to the district a plan for erosion and sediment control for such land-disturbing activity and such plan has been reviewed and approved by the district, except that (1) when proposed land-disturbing activities are to be performed on state lands or by or on behalf of a state agency, plans for erosion and sediment control shall be submitted to the Commission instead of the district for review and approval, and (2) where land-disturbing activities involve lands in more than one district, plans for erosion and sediment control may, as an alternative to submission to each district concerned, be submitted to the Commission for review and approval.

(b) Upon submission of an erosion and sediment control plan to a district or to the Commission:

(1) the districts shall review plans submitted to it and shall approve any such plan if it determines that the plan meets the conservation standards of the district, and if the person responsible for carrying out the plan certifies that he will properly perform the erosion and sediment control measures included in the plan and will conform to the provisions of this Act;

(2) the Commission shall review plans submitted to it and shall approve any such plan if it determines that the plan is adequate in consideration of the Commission's guidelines and the conservation standards of the district or districts involved, and if the person responsible for carrying out the plan certifies that he will properly perform the conservation measures included in the plan and will conform to the provisions of this Act.

(c) When a plan submitted for approval under this section is found, upon review by a district or the Commission, to be inadequate, the district or the Commission, as the case may be, may require such modifications, terms, and conditions as will permit approval of the plan.

(d) An approved plan may be changed by the district which has approved the plan or by the Commission when it has approved the plan, where:

(1) inspection has revealed the inadequacy of the plan to accomplish the erosion and sediment control objectives of the plan, and appropriate modifications to correct the deficiencies of the plan are agreed to by the plan-approving authority and the person responsible for carrying out the plan; or

(2) the person responsible for carrying out the approved plan finds that because of changed circumstances or for other reasons the approved plan cannot be effectively carried out, and proposed amendments to the plan, consistent with the requirements of this Act, are agreed to by the plan-approving authority and the person responsible for carrying out the plan.

(e) Any person owning, occupying, or operating private agricultural and forest lands who has a farm or ranch conservation plan approved by the district and is implementing and maintaining such plan with respect to normal agricultural and forestry activities, or any person whose normal agricultural and forestry practices are in conformance with the conservation standards established pursuant to this Act, shall not be deemed to be engaged in prohibited land-disturbing activity. If there is not available to any such owner, operator, or occupier at least 50 percent cost-sharing assistance or adequate technical assistance for the installation of erosion and sediment control measures required in an approved farm or ranch plan, or for measures to conform agricultural and forestry practices to conservation standards established pursuant to this Act, any such owner, occupier, or operator who shall fail to install erosion and sediment control measures required in an approved farm or ranch conservation plan, or to conform his

agricultural and forestry practices to such conservation standards, shall not be deemed to be engaged in prohibited land-disturbing activity subject to penalties under the Act.

Section 6. [*Approved Plan Required for Issuance of Grading, Building, or Other Permits.*] No agency authorized under any other law to issue grading, building, or other permits for activities involving land-disturbing activities may issue any such permits unless the applicant therefor submits with his application an erosion and sediment control plan approved by the district, or by the Commission where appropriate, and his certification that such plan will be followed. These requirements are in addition to all other provisions of law relating to the issuance of such permits and are not intended to otherwise affect the requirements for such permits.

Section 7. [*Monitoring, Reports, and Inspections.*]

(a) *Land-disturbing activities where permit is issued.* With respect to approved plans for erosion and sediment control in connection with land-disturbing activities which involve the issuance of a grading, building, or other permit, the permit-issuing authority shall provide for periodic inspections of the land-disturbing activity to insure compliance with the approved plan, and to determine whether the measures required in the plan are effective in controlling erosion and sediment resulting from the land-disturbing activities. Notice of such right of inspection shall be included in the permit. If the permit-issuing authority determines that the permittee has failed to comply with the plan, the authority shall immediately serve upon the permittee by registered mail to the address specified by the permittee in his permit application a notice to comply. Such notice shall set forth the measures needed to come into compliance with such plan and shall specify the time within which such measures shall be completed. If the permittee fails to comply within the time specified, he shall be deemed to be in violation of this Act and upon conviction shall be subject to the penalties provided by the Act.

(b) *Other land-disturbing activities except agricultural and forestry operations.* With respect to approved plans for erosion and sediment control in connection with all other land-disturbing activities except agricultural and farming operations, the district, or the Commission in connection with plans approved by it, may require of the person responsible for carrying out the plan such monitoring and reports, and may make such on-site inspections after notice to the resident owner, occupier, or operator, as are deemed necessary to determine whether the soil erosion and sediment control measures required by the approved plan are being properly performed, and whether such measures are effective in controlling soil erosion and sediment resulting from the land-disturbing activity. Such resident owner, occupier, or operator shall be given an opportunity to accompany the

inspectors. If it is determined that there is failure to comply with the approved plan, the district, or the Commission where appropriate, shall serve upon the person who is responsible for carrying out the approved plan a notice to comply, setting forth the measures needed to be taken and specifying the time in which such measures shall be completed. Such notice shall be by registered mail to the person responsible for carrying out the plan at the address specified by him in his certification at the time of obtaining his approved plan. Upon failure of such person to comply within the specified period, he will be deemed to be in violation of the Act and subject to the penalties provided by the Act.

(c) *Agricultural and forestry operations.* With respect to agricultural and forestry operations, the district shall have authority to make on-site inspections to determine if the approved farm or ranch conservation plan is being followed, or, where there is no such plan, to determine if the agricultural and forestry practices are being carried out in conformance with conservation standards established pursuant to this Act. On-site inspections may be made after notice to the resident owner, operator, or occupier of the land involved, and such person shall be given an opportunity to accompany the inspector. If such inspections reveal that an owner, operator, or occupier of agricultural or forestry lands is not complying with the approved farm or ranch conservation plan or is not carrying out his agricultural and forestry practices in conformance with conservation standards established pursuant to this Act, such owner, operator, or occupier shall be notified by registered mail addressed to him at his usual abode or customary place of business of the measures needed for compliance. Such notice shall require that such resident owner, occupier, or operator shall commence such measures within 6 months from the date of the notice and shall complete the same within 12 months of such date. Upon failure to comply with such notice, the owner, occupier, or operator will be deemed in violation of this Act and subject to the penalties provided by the Act.

Section 8. [*Cooperation with Federal Agencies.*] The district and the Commission are authorized to cooperate and enter into agreements with any federal agency in connection with plans for erosion and sediment control with respect to land-disturbing activities on lands which are under the jurisdiction of such federal agency.

Section 9. [*Financial and Other Assistance.*] The Commission and the districts are authorized to receive from federal, state, or other public or private sources financial, technical, or other assistance for use in accomplishing the purposes of this Act.

Section 10. [*Appeals.*] Decisions of the districts, the Commission, and the permit-issuing authorities under the provisions of this Act

shall be subject to review by the [ ] court; *provided,* an appeal is filed within 30 days from the date of any such decision.

Section 11. [*Penalties, Injunctions and Other Legal Actions.*]

(a) A violation under Section 5 or 7 of this Act shall be deemed a misdemeanor and upon conviction shall be subject to a fine not to exceed $500 or one year's imprisonment for each and every violation. Each day the violation continues shall constitute a separate offense.

(b) The appropriate permit-issuing authority, the district, the Commission, or any aggrieved person who suffers damage or is likely to suffer damage because of a violation may apply to the [ ] court for injunctive relief to enjoin a violation or threatened violation under Section 5 or 7 of this Act.

(c) The [county attorney] shall, upon request of a district or the permit-issuing authority, take legal action to enforce the provisions of this Act. The State Attorney General shall, upon request of the Commission, take appropriate legal action on behalf of the Commission to enforce the provisions of this Act.

Section 12. [*Appropriation.*] [Provision should be made for an appropriation out of funds in the state treasury to finance the activities authorized by this Act.]

Section 13. [*Separability.*] If any provision of this Act is held to be unconstitutional or invalid, such unconstitutionality or invalidity shall not affect the remaining provisions of this Act.

Section 14. [*Effective Date.*] This Act shall take effect. . .

## Selected Bibliography on Sediment Control

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